UNITED STATES DISTRICT COURT WESTERN DISTRICT OF MISSOURI SOUTHERN DIVISION

JASON ADAM JENSEN,)	
Plaintiff,))	
v.) Case No. 6:22-CV-03140-Bo	CW
CITIBANK, N.A., et al.,))	
Defendants.)	

DEFENDANTS CITIBANK, N.A. AND CITIGROUP, INC.'S MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE

Plaintiff Jason Adam Jensen ("Jensen") has moved to strike Defendants Citibank, N.A., and Citigroup, Inc.'s (collectively, the "Citi Defendants") Rule 12(b)(5) motion to dismiss. Jensen's motion should be denied because Rule 12(f) motions to strike are limited to pleadings, which a motion is not. *Compare* Fed. R. Civ. P. 7(a) (defining pleadings) with Fed. R. Civ. P. 7(b) (discussing motions and other papers); see also 5C Charles Alan Wright et al, Federal Practice and Procedure §1380 (3d ed., West 2023) ("Rule 12(f) motions only may be directed towards pleadings as defined by Rule 7(a); thus motions, affidavits, briefs, and other documents outside of the pleadings are not subject to Rule 12(f)."). If Jensen had counterarguments against the Rule 12(b)(5) motion, he should have raised by opposition (the deadline for which has passed).

Further, Jensen's waiver argument lacks any merit. He suggests that Citibank, N.A., waived its challenge to insufficient service of process by arguing that Jensen's motion for default judgment fails to comply with Rule 55. As an initial matter, the primary basis of the Citi Defendants' opposition to the motion for default judgment is that the Citi Defendants have not been served. See Doc. 79 (incorporating arguments in support of the Citi Defendants' 12(b)(5) motion to dismiss). Regardless, the Citi Defendants preserved their insufficient service of process

defense by raising the matter in a Rule 12(b)(5) motion. See Fed. R. Civ. P. 12(h)(1)(B)(i).

Additionally, waiver of Rule 12 defenses is not as rigid as Jensen attempts to argue. For example,

"[n]o defense or objection is waived by joining it with one or more other defenses or objections in

a responsive pleading or in a motion." See Fed. R. Civ. P. 12(b).

Finally, to note, Jensen indicates that he "has no further objection to the dismissal of

Citigroup" and that he "knows of no further claim against Citigroup." See Doc. 81, Motion to

Strike. Jensen's statements should be considered in this Court's determination of whether to grant

dismissal with prejudice as the proper relief for the Citi Defendants' Rule 12(b)(5) motion (Doc.

75).

Accordingly, Jensen's motion to strike should be denied.

Dated: May 17, 2023

Respectfully Submitted,

BRYAN CAVE LEIGHTON PAISNER LLP

By: /s/ Benjamin A. Ford

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ATTORNEYS FOR DEFENDANT CITIBANK, N.A. AND

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CERTIFICATE OF SERVICE

The undersigned certifies that, on May 17,	2023, the	e foregoing	was served	on all	counsel
of record via this Court's electronic filing system.					

/s/ Benjamin A. Ford